

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**CHAMBERS OF  
MARK FALK  
UNITED STATES MAGISTRATE JUDGE**

**USPO & COURTHOUSE  
1 FEDERAL SQ., ROOM 457  
NEWARK, NJ 07101  
(973) 645-3110**

July 14, 2008

**LETTER ORDER**

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**Re:    Ciardiello, et al. v. Sexton, et al.  
      Civil Action No. 06-4007 (WJM)**

Dear Litigants:

Before the Court is plaintiffs' motion for leave to file an amended complaint identifying a previously named "Doe" defendant. (Docket Entry No. 34.) The motion has been pending for approximately two months and is unopposed. This is so despite the fact that the Court, during a telephone conference held off the record on June 19, 2008, directed defendants to submit a letter indicating the effect, if any, granting the motion would have on the pending dispositive motions before District Judge Martini. (No letter was ever submitted.) It should also be noted that plaintiffs filed this motion without leave of court, as a cross-motion to arguably unrelated motions, and five

and one-half months after they obtained the information they now seek to bring into this case. However, any arguments that could be advanced in opposition to the motion are not for this Court to make. See United States v. Bendolph, 409 F.3d 155, 172 (3d Cir. 2005) (Nygaard, J., concurring in part and dissenting in part) (“In an adversarial system, it is not for the courts to bring to light the best arguments for either side; that responsibility is left to the parties themselves.” (citation omitted)). As such, plaintiffs’ motion is **granted**. Plaintiffs’ amended complaint should be filed immediately.

**SO ORDERED.**

s/Mark Falk  
**MARK FALK**  
**United States Magistrate Judge**

Orig.: Clerk of the Court  
cc: Hon. William J. Martini, U.S.D.J.  
All Parties  
File